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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,126	12/20/2001	Heribert Flueter	12758-039001	3033
26161	7590	12/13/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			JONES, PRENELL P	
			ART UNIT	PAPER NUMBER
			2668	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/027,126

Applicant(s)

FLUETER, HERIBERT

Examiner

Prenell P. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and ***legal phraseology*** often used in patent claims, such as ***"means" and "said," should be avoided***. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, ***"The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes,"*** etc.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 3, 5, 8, 12, 16, 18, 20, 25, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Fourie et al (US PAT. 6,356,629).

Regarding claims 1, 3, 5, 8, 12, 16, 18, 20, 25, 27 and 28, Fourie discloses SVC call setup management strategy as associated in a connection-oriented (ATM) call traffic network wherein the strategy includes determining whether or not congestion exist for the purpose of setting up calls, call setup is implemented and setup thresholds are utilized (Abstract, col. 1, line 10-25, col. 3, line 6-41, col. 6, line 35-43), implementing initiation of new setup when certain thresholds are exceeded, discarding setup messages as associated with exceeding threshold (release threshold) (col. 5, line 38-51), predetermined/preset threshold values assigned, utilizing aggregate number of calls and cell rate to establish call (Fig. 6, col. 4, line 25-61, col. 5, line 11-67, col. 6, line 24-43).

Allowable Subject Matter

4. Claim 2, 4, 6, 7, 9-11, 13-15, 17,19, 21-24, 26 and 29-31 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: Although the combined prior discloses a communication system wherein SVC call setup management strategy as associated in a connection-oriented (ATM) call traffic network wherein the strategy includes determining whether or not congestion exist for the purpose of setting up calls, predetermined thresholds, and utilizing setting up threshold and releasing thresholds, they fail to teach or suggest with respect to claim 2, making anticipatory decision regarding a path takes into account the capacity of the path currently used for transmission of information and required future capacity, with respect to claims 6, 21 setup/release threshold values are variable values administered by the ATM network, with respect to claims 7, 13, 22, 29, an ATM network is AAL2 network, with respect to claim 11, 19, 26, setup/release threshold corresponds to at least one minimum and maximum of a distance between currently used network resources and all available path resources, with respect claim 14, 30, after setting-up more than one path, each of the more than one paths is occupied completely with ATM-channels before starting to occupy another path with ATM channels, with respect to claim 15, 31, a path release for at least one path in the network is initiated if the

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capacity of the path currently used for transmission of information is below a threshold during at least a preset period of time or if the capacity of the path currently used for transmission is on average below a threshold during at least a preset period of time, with respect to 17, capacity of the path currently used for transmission include capacity necessary for at least one of the new call and data transmission.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

November 30, 2005




CHIEH M. FAN
SUPERVISORY PATENT EXAMINER